

# CITY CODE

## Chapter 1

### GENERAL PROVISIONS

#### Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Belmont City Code," and may be so cited. (Code 1961, § 1.1)

**State law reference**—Codification of ordinances, Gov. Code, § 50022.1 et seq.

#### Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

**City.** The words "the city" or "this city" shall be construed as if followed by the words "of Belmont."

**Code.** The words "the Code" or "this Code" shall mean "The Belmont City Code."

**Computation of time.** The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded.

**State law reference**—Similar provisions, Gov. Code, § 6800.

**Council.** Whenever the term "council" or "city council" is used, it shall be construed to mean the city council of the City of Belmont, California.

**County.** The words "the county" or "this county" shall mean the County of San Mateo of the State of California.

**Day.** A "day" is the period of time between any midnight and the midnight following.

**State law reference**—Similar provisions, Gov. Code, § 6806.

**Daytime, nighttime.** "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

**State law reference**—Similar provisions, Gov. Code, § 6807.

**Gender.** The masculine gender includes the feminine and neuter.

**State law reference**—Similar provisions, Gov. Code, § 12.

**Health department** shall mean the health department of the county.

**Health officer** shall mean the health officer of the county or his authorized representative.

**In the city.** The words "in the city" shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

**Joint authority.** All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

**State law reference**—Similar provisions, Civ. Code, § 12.

**Month.** The word "month" shall mean a calendar month unless otherwise specified.

**State law reference**—Similar provisions, Gov. Code, § 6804.

**Number.** The singular number includes the plural, and the plural the singular.

**State law reference**—Similar provisions, Gov. Code, § 13.

**Oath.** "Oath" includes affirmation.

**State law reference**—Similar provisions, Gov. Code, § 15.

**Officer, office, employee, board, commission or department.** Whenever any officer, office, employee, board, commission or department is referred to it shall mean an officer, office, employee, board, commission or department of the city unless the context clearly requires otherwise.

**Or, and.** "Or" may be read "and," and "and" may be read "or," if the sense requires it.

**Owner.** The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant

in partnership, joint tenant or tenant by entirety, of the whole or of a part of such building or land.

*Person.* "Person" includes any person, firm, association, organization, partnership, business trust, corporation or company.

*State law reference*—Similar provisions, Gov. Code, § 17.

*Personal property* includes every species of property except real property, as defined in this section.

*State law reference*—Similar provisions, Civ. Code, § 14.

*Preceding, following.* The words "preceding" and "following" mean next before and next after, respectively.

*Process.* "Process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

*State law reference*—Similar provisions, Gov. Code, § 22.

*Property.* The word "property" shall include real and personal property.

*State law reference*—Similar provisions, Civ. Code, § 14.

*Real property* shall include lands, tenements and hereditaments.

*State law reference*—Similar provisions, Civ. Code, § 14.

*Shall, may.* "Shall" is mandatory and "may" is permissive.

*State law reference*—Similar provisions, Gov. Code, § 14.

*Signature or subscription.* "Signature" or "subscription" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two (2) witnesses so sign their own names thereto.

*State law reference*—Similar provisions, Gov. Code, § 16.

*State.* The words "the state" or "this state" shall be construed to mean the State of California.

*Tenant or occupant.* The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or

oral lease of, or who occupies, the whole or a part of such building or land, either alone or with others.

*Tenses.* The present tense includes the past and future tenses; and the future, the present.

*State law reference*—Similar provisions, Gov. Code, § 11.

*Week.* A "week" consists of seven (7) consecutive days.

*Writing.* "Writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

*State law reference*—Similar provisions, Gov. Code, § 8.

*Year.* The word "year" shall mean a calendar year except where otherwise provided. (Code 1961, § 1.2)

### **Sec. 1-3. Provisions considered continuations of existing ordinances.**

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments. (Code 1961, § 1.3)

### **Sec. 1-4. Effect of repeal of ordinances.**

The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed. (Code 1961, § 1.4)

### **Sec. 1-5. Severability of parts of Code.**

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or unenforcea-

bility shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1961, § 1.5)

#### **Sec. 1-6. Official time.**

Whenever certain hours are named herein, they shall mean Pacific Standard Time or Daylight Saving Time whichever may be in current use in the city.

(Code 1961, § 1.6)

#### **Sec. 1-7. Catchlines of sections.**

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

(Code 1961, § 1.7)

#### **Sec. 1-8. General penalty; continuing violations.**

Whenever in this Code or in any other ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do an act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any other ordinance of the city shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

Every day any violation of this Code or any other ordinance of the city shall continue shall constitute a separate offense.

- (a) *Code violations.* Notwithstanding any other provision of this Code, whenever violation of any section contained in this section is punishable as a misdemeanor, the prosecuting attorney, having jurisdiction to prosecute said misdemeanor may specify that the offense is an infraction and proceed with prosecution as an infraction unless

the defendant, at the time of his arraignment or plea, objects to the offense being made an infraction, in which event the complaint shall be amended to charge a misdemeanor and the case shall proceed on a misdemeanor complaint.

- (b) *Nuisances.* In addition to the penalties provided, any condition caused or permitted to exist in violation of the provision of this Code is a public nuisance and may be summarily abated as such. Each day that the condition continues it is a new and separate offense.

(Code 1961, § 1.8; Ord. No. 914, § 1, 3-11-97; Ord. No. 922, § 1, 2-24-98)

**State law references**—Maximum fine and imprisonment, Gov. Code, § 36901; ordinance violations declared misdemeanors, Gov. Code, § 36900.

#### **Sec. 1-9. Place of imprisonment.**

Any person found guilty of a violation of any existing ordinance of the city and adjudged by the court to suffer imprisonment as a penalty therefor, shall be imprisoned in the county jail.

(Code 1961, § 1.9)

**State law reference**—Place of imprisonment and expense thereof, Gov. Code, § 36903.

#### **Sec. 1-10. Seal described.**

The common seal of the city shall be in the form of a circle and within the outer edge of the circle there shall be inscribed the following words and figures:

CITY OF BELMONT  
INCORPORATED OCTOBER 29, 1926  
CALIFORNIA

(Code 1961, § 1.10)

**State law reference**—Clerk to be custodian of seal, Gov. Code, § 40811.

#### **Sec. 1-11. Review by council.**

Within ten (10) days following the date of the decision by the planning commission, or other board or commission, the city council may initiate proceedings to review the decision on motion by any member of the city council.

Said review shall be governed by the following procedures:

- (a) The request for review by a council member must be made by written notice. Said notice shall be served on the city clerk, secretary of the planning commission, or other board or commission which made the decision. The clerk or secretary shall notify the applicant or if the matter concerns real property, the owner of the real property in question.
  - (b) Upon service of said notice of request for review by the city council, all proceedings in furtherance of the action or decision of the affected board or commission shall be stayed.
  - (c) The council shall review the matter not later than thirty (30) days following service of the notice of review.
  - (d) Upon completion of its review, the council may affirm, reverse, or modify the decision of the commission.
- (Ord. No. 837, § 1, 11-13-90)